

JAN 18 2008

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

HUGO ARMENDARIZ-CAMACHO,

Defendant - Appellant.

No. 06-50586

D.C. No. CR-06-00784-LAB

MEMORANDUM^{*}

Appeal from the United States District Court
for the Southern District of California
Larry A. Burns, District Judge, Presiding

Submitted January 14, 2008^{**}

Before: HALL, O'SCANNLAIN, and PAEZ, Circuit Judges.

Hugo Armendariz-Camacho appeals from his conviction for three counts of bringing in illegal aliens for financial gain and aiding and abetting in violation of 8

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

U.S.C. § 1324(a)(2)(B)(ii), and 18 U.S.C. § 2. We have jurisdiction under 28
U.S.C. § 1291, and we vacate and remand.

Because there is no evidence that Armendariz-Camacho acted in furtherance of the “bringing to” crimes prior to the aliens’ arrival at the drop-off and because there is no evidence that Armendariz-Camacho “knowingly and intentionally aided, counseled, commanded, induced or procured [the principal] to commit each element” of the “brings to offense,” our recent case *United States v. Lopez* holds that he cannot be convicted of bringing in illegal aliens for financial gain. *See United States v. Lopez*, 484 F.3d 1186, 1200-01 (9th Cir. 2007) (en banc) (holding that the crime of bringing an illegal alien to the United States terminates when the initial transporter ceases transporting the alien).

Therefore, viewing the evidence in the light most favorable to the government, any rational juror would have had at least a reasonable doubt as to whether Armendariz-Camacho committed the three “brings to offense[s].” *Id.* at 1200. We vacate and remand for further proceedings in light of *Lopez*.

VACATED and REMANDED.